



**U.S. Army Corps
of Engineers**
Pittsburgh District

Public Notice

In Reply Refer to
Notice No. below

US Army Corps of Engineers, Pittsburgh District
1000 Liberty Avenue
Pittsburgh, PA 15222-4186

Application No. 2008-563

Date: July 31, 2008

Notice No. 08-41

Closing Date: August 30, 2008

1. TO ALL WHOM IT MAY CONCERN: The following application has been submitted for a Department of the Army Permit under the provisions of Section 404 of the Clean Water Act (33 U.S.C. 1344).
2. APPLICANT: McElroy Coal Company
P.O. Box 425, RD 4
Moundsville, WV 26041
3. LOCATION: The project is located in Franklin District of Marshall County, West Virginia. The proposed project is located at approximately Latitude 39'49'29"N and Longitude 80'48'38"W.
4. PURPOSE AND DESCRIPTION OF WORK: The proposed action includes the construction of a new overland beltline (SMA O-1023-92, IBR No. 8) from an existing Preparation Plant to a course coal refuse disposal facility. The proposed beltline will include the culverting and/or temporarily filling of 9 jurisdictional stream channels totaling approximately 450 linear feet and permanently filling one jurisdictional wetland totaling 0.02-acre. The stream crossings are associated with unnamed tributaries of Connor Run and an unnamed tributary of the Ohio River. The culverts if utilized will be corrugated metal and/or HDPE pipe. At this time the applicant has not completed a mitigation proposal for this project. No further details are known at this time. Drawings for the proposed project are attached to this notice.
5. WEST VIRGINIA CERTIFICATION: This permit decision will not be made until the State of West Virginia, Division of Environmental Protection (WVDEP), issues, denies, or waives State Certification. This public notice does not serve as application to the WVDEP for certification required by Section 401 of the Clean Water Act. The applicant must apply directly to the WVDEP for individual water quality certification. The WVDEP will also consider whether or not the proposed activity will comply with sections 301, 302, 303, 306, 307 of the Clean Water Act or any

other appropriate State laws. Any person wishing to comment, ~~provide information, and/or request a public hearing concerning~~ certification for this project should write to the:

West Virginia Department of Environmental Protection
Division of Mining & Reclamation
601 57th Street SE
Charleston, West Virginia 25304
Telephone: 304-926-0495

Attn: Richard Roy
Re: Public Notice CELRP-OP-F No 08-41.

6. IMPACT ON NATURAL RESOURCES: The District Engineer has consulted the most recently available information and has determined that the project is not likely to affect the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which has been determined to be critical. This Public Notice serves as a request to the U. S. Fish and Wildlife Service (USFWS) for any additional information they may have on whether any listed or proposed to be listed endangered or threatened species may be present in the area which would be affected by the activity, pursuant to Section 7(c) of the Endangered Species Act of 1972 (as amended).

7. IMPACT ON CULTURAL RESOURCES: The National Register of Historic Places has been consulted, and it has been determined that there are no properties currently listed on the register which would be directly affected by the proposed work. If we are made aware, as a result of comments received in response to this notice, or by other means, of specific archeological, scientific, prehistorical, or historical sites or structures which might be affected by the proposed work, the District Engineer will immediately take the appropriate action necessary pursuant to the National Historic Preservation Act of 1966 - Public Law 89-665 as amended (including Public Law 96-515).

8. PUBLIC INVOLVEMENT: Any person may request, in writing, within the comment period specified in the paragraph below entitled "RESPONSES," that a public hearing be held to consider this application. The requests for public hearing shall state, with particularity, the reasons for holding a public hearing.

9. EVALUATION: Interested parties are invited to state any objections they may have to the proposed work. The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposals must be balanced against its reasonably

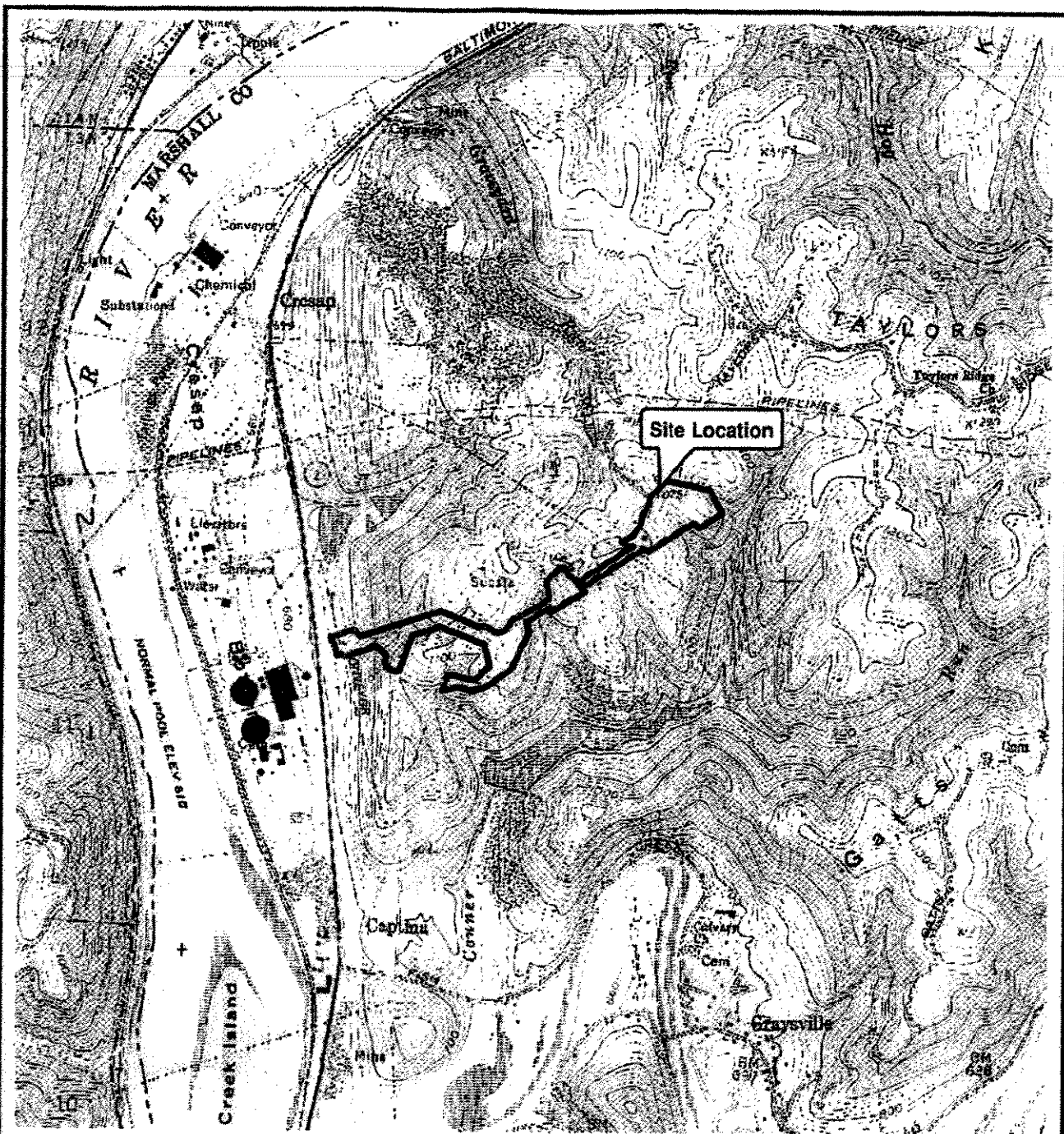
foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people. The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the overall public interest of the proposed activity. The evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator, Environmental Protection Agency, under the authority of Section 404(b) of the Clean Water Act (40 CFR Part 230).

10. RESPONSES: A permit will be granted unless its issuance is found to be contrary to the public interest. Written statements concerning the proposed activity should be received in this office on or before the closing date of this Public Notice in order to become a part of the record and to be considered in the final determination. Any objections which are received during this period may be forwarded to the applicant for possible resolution before the determination is made whether to issue or deny the requested DA Permit. All responses to this notice should be directed to the Regulatory Branch, attn Allen Edris, at the above address, by telephoning (412) 395-7158, or by e-mail at allen.r.edris@lrp02.usace.army.mil. Please refer to CELRP-OP-F 2008-563 in all responses.

FOR THE DISTRICT ENGINEER:

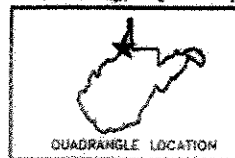
SIGNED

Scott A. Hans
Chief, Regulatory Branch



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SOURCE: USGS 7.5 MINUTE TOPOGRAPHIC QUADRANGLE MAP - POWHATAN POINT, WEST VIRGINIA 1976.



Civil & Environmental Consultants, Inc.
Cincinnati, OH

(513) 985-0226 (800) 759-5614

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Site Location Map

McElroy Mine Refuse Beltline - IBR No.8

MCELROY COAL COMPANY

Captina, Marshall County, West Virginia

DWN. BY: MJB

SCALE:

DATE:

PROJECT NO:

FIGURE NO:

CHKD. BY: JCD

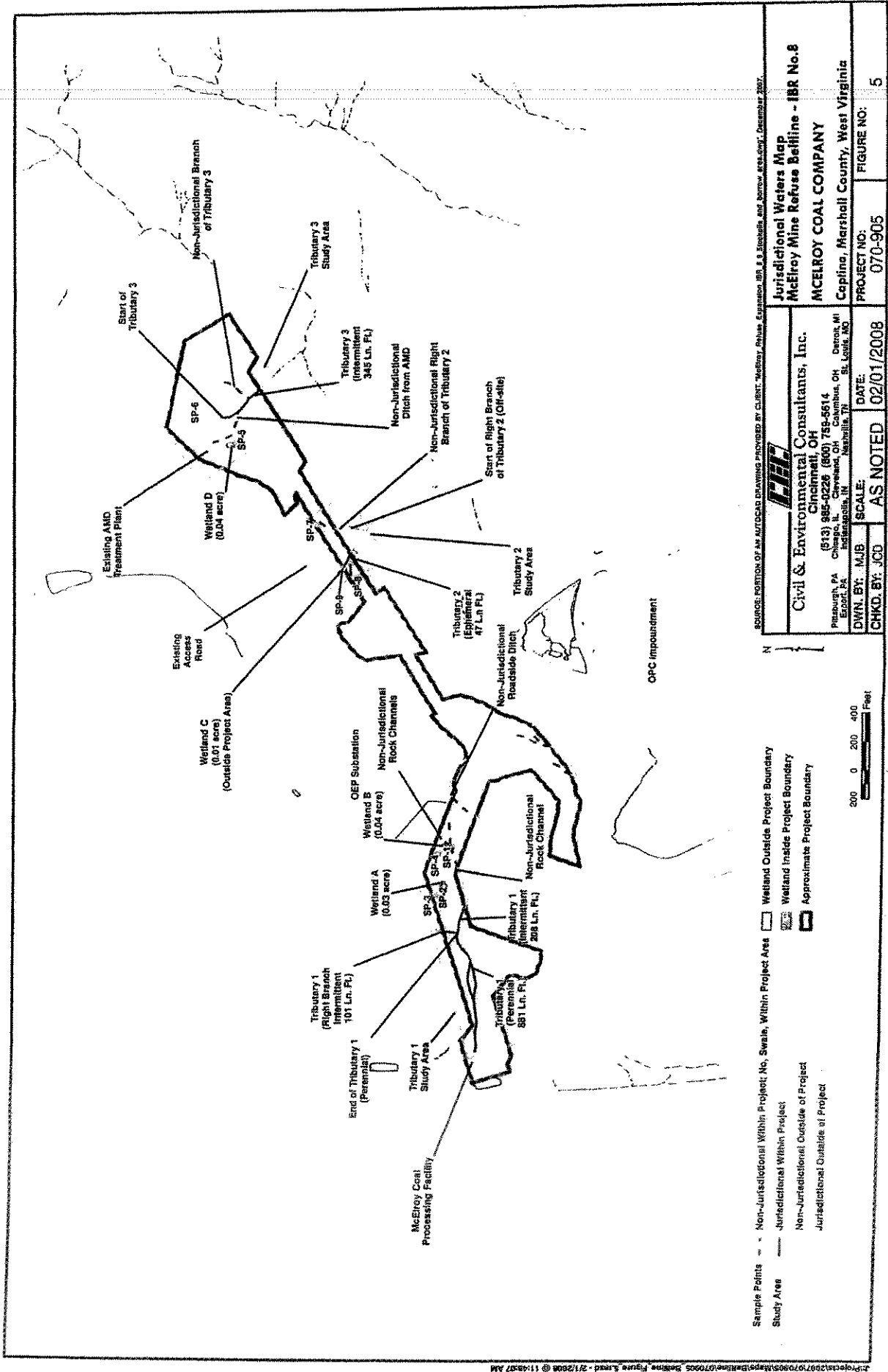
AS NOTED

02/01/2008

070-905

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SOURCE: PORTION OF AN AUTOCAD DRAWING PROVIDED BY CLIENT, McElroy Mine Refuse Beltline, IFR No. 8, December 2007.



Civil & Environmental Consultants, Inc.

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(513) 985-0226 (609) 759-5614

Chicago, IL
Columbus, OH
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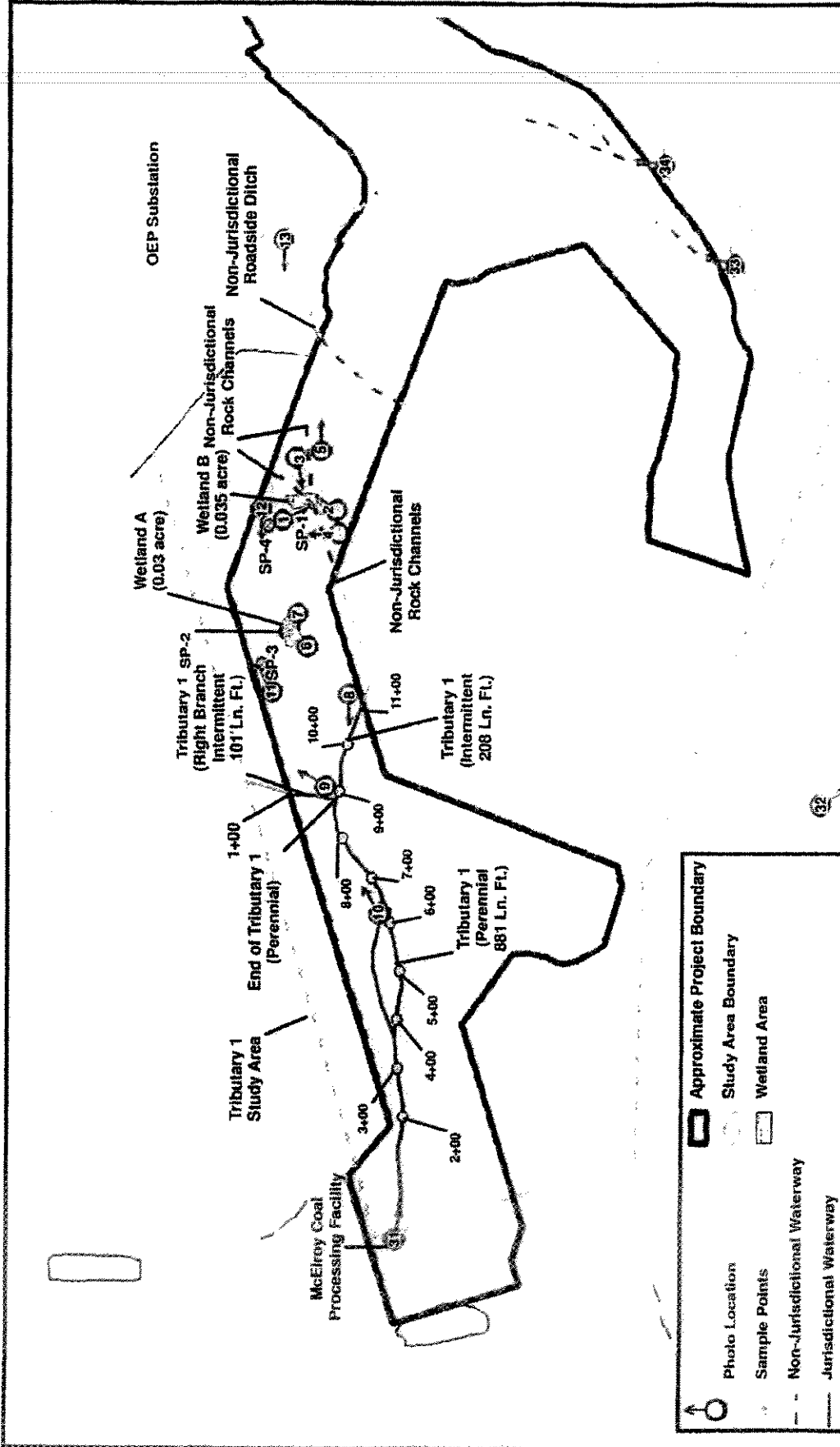
DWN BY: MJB SCALE: AS NOTED DATE: 02/01/2008

CHKD BY: JCD PROJECT NO: 070-905 FIGURE NO: 5

Jurisdictional Waters Map
McElroy Mine Refuse Beltline - IFR No. 8

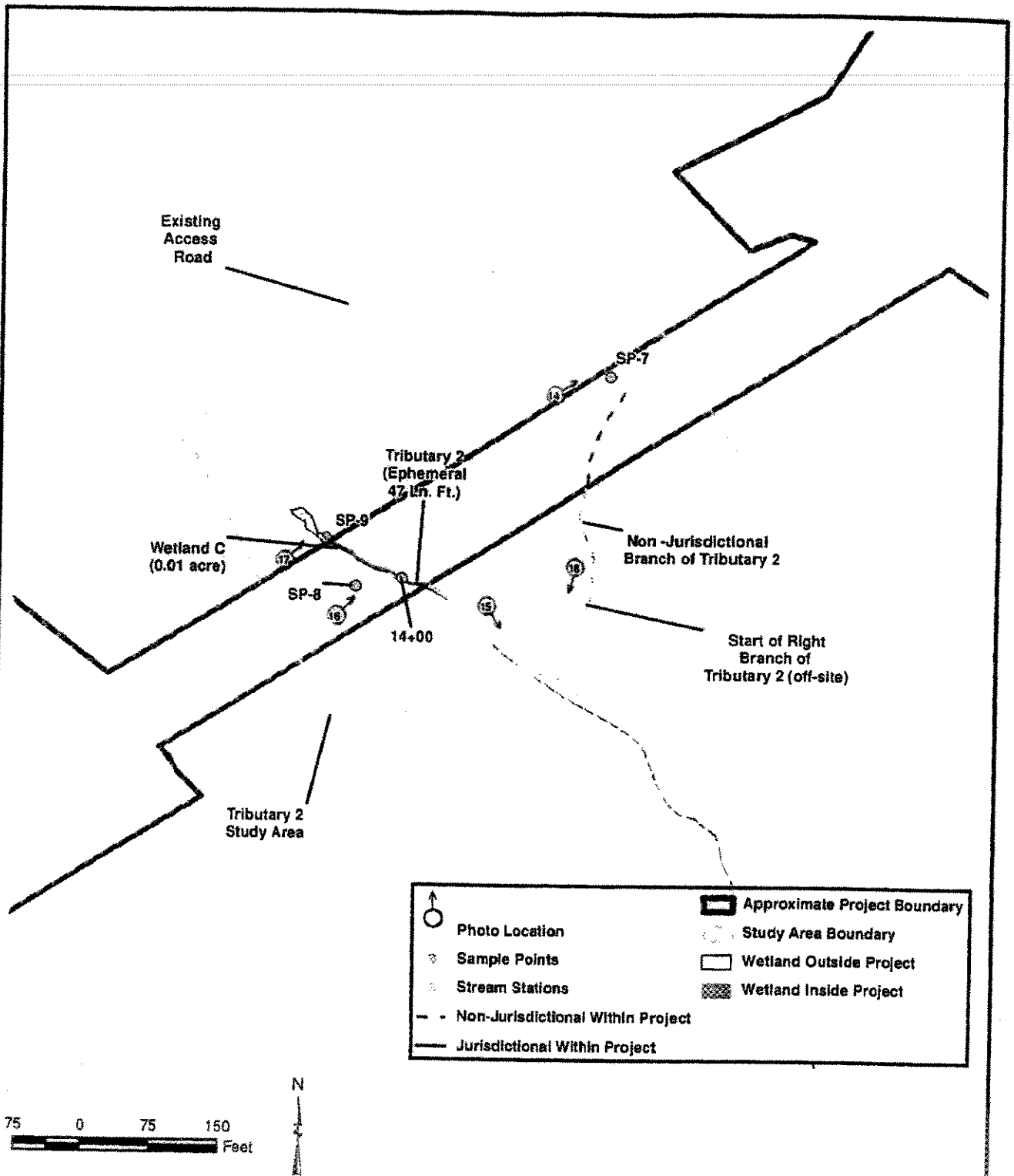
MCELROY COAL COMPANY

Capline, Marshall County, West Virginia




SOURCE: PORTION OF AN AUTOCAD DRAWING PROVIDED BY CLIENT, McElroy Refuse Expansion IRR & 9 Stockpile and borrow area.dwg, December, 2007.

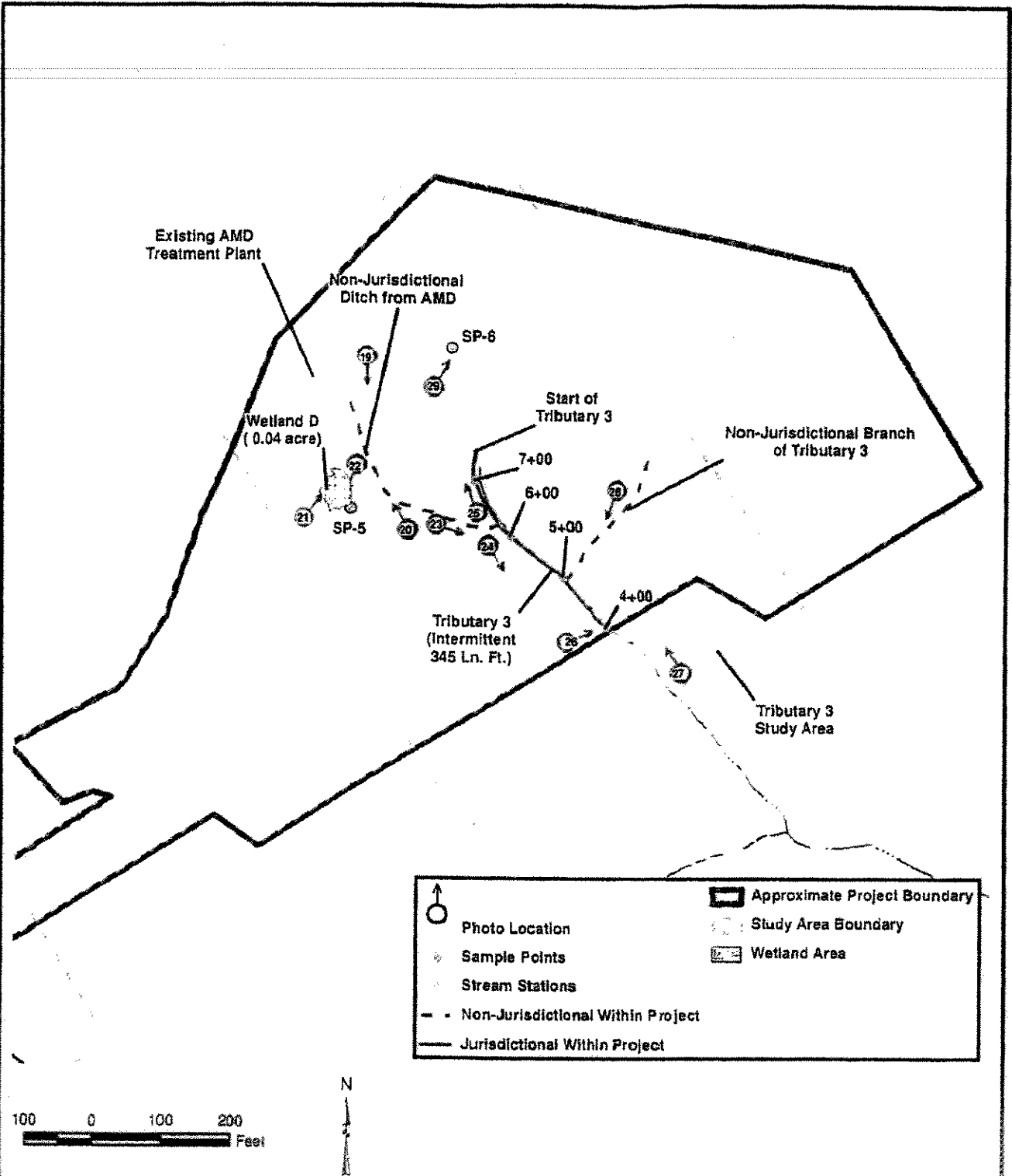
Civil & Environmental Consultants, Inc. Cincinnati, OH (513) 985-0226 (800) 759-5614 Pittsburgh, PA Chicago, IL Cleveland, OH Columbus, OH Detroit, MI Export, PA Indianapolis, IN Nashville, TN St. Louis, MO		Jurisdictional Waters Tributary 1 Study Area McElroy Mine Refuse Beltline - IRR No.8 MCELROY COAL COMPANY Caplina, Marshall County, West Virginia	
DWN. BY: MJB	SCALE: AS NOTED	DATE: 02/01/2008	PROJECT NO: 070-905
CHKD. BY: JCD			FIGURE NO: 5a




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SOURCE: PORTION OF AN AUTOCAD DRAWING PROVIDED BY CLIENT, "McElroy Refuse Expansion IBR & 9 Stockpile and borrow area.dwg", December 2007.

 Civil & Environmental Consultants, Inc. Cincinnati, OH (513) 985-0226 (800) 759-5614 Pittsburgh, PA Chicago, IL Cleveland, OH Columbus, OH Detroit, MI Export, PA Indianapolis, IN Nashville, TN St. Louis, MO		Jurisdictional Waters Tributary 2 Study Area McElroy Mine Refuse Beltline - IBR No.8 MCELROY COAL COMPANY Captina, Marshall County, West Virginia	
		DWN. BY: MJB CHKD. BY: JCD	SCALE: AS NOTED
			FIGURE NO: 5b



SOURCE: PORTION OF AN AUTOCAD DRAWING PROVIDED BY CLIENT, "McElroy Refuse Expansion IBR 8.8 Stockpile and borrow area.dwg", December 2007.

			Jurisdictional Waters Tributary 3 Study Area McElroy Mine Refuse Beltline - IBR No.8 MCELROY COAL COMPANY Captina, Marshall County, West Virginia		
Civil & Environmental Consultants, Inc. Cincinnati, OH (513) 985-0226 (800) 759-5614 Pittsburgh, PA Chicago, IL Cleveland, OH Columbus, OH Detroit, MI Export, PA Indianapolis, IN Nashville, TN St. Louis, MO					
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